



EMPLOYMENT LAW AUDIT FOR YOUR MEDICAL PRACTICE

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In the past several years employers generally, and certainly medical practices, have seen an explosion of lawsuits filed by current and former employees sparked by a series of new state and federal laws and regulations. Many of the lawsuits could easily have been avoided if the employer took preventative measures to protect itself. Much like the body needs a medical check-up to avoid any number of ailments, a company should have itself examined with an employment law audit.

An employment law audit is most often conducted by an attorney whose practice emphasizes employment and labor law. The employment lawyer will review and/or draft policies and procedures relating to the following topics.

Non-Compete Agreements

Review employee contracts to determine if non-compete and non-solicitation provisions are enforceable.

Sexual Harassment and Anti-Discrimination Policy

Review the practice's sexual harassment, anti-discrimination and retaliation policies and procedures to assure compliance with several laws including the Pennsylvania Human Relations Act (or other state law), Title VII (federal statute), the Age Discrimination in Employment Act, The Civil Rights Act of 1991 and The Pregnancy Discrimination Act.

Employees With Disabilities

Review policies and procedures to assure compliance with state law and The Americans With Disabilities Act of 1990, including a review of hiring and termination procedures.

Employee Manual or Handbook. These items should be reviewed periodically to assure their compliance with changes in the law.

Employee v. Independent Contractors

Review independent contractor agreements to determine if those workers, are in fact independent contractors or employees (which has serious ramifications on the practice's contributions for taxes, workers' compensation, unemployment, etc.)

Wage/Hour

Review policies and procedures to assure the practice is: (a) properly calculating and paying overtime; (b) properly classifying its employees into exempt and non-exempt categories; (c) not improperly changing or docking employees for time off; (d) not otherwise in violation of the regulations promulgated under the Fair Labor Standards Act or Pennsylvania's Wage Payment and Collection Law. This review is especially necessary to avoid an investigation and audit by the United States Department of Labor Wage/Hour Division which can look back three years at wages paid to all employees.

Equal Pay

Review payroll records and job positions to assure compliance with the federal Equal Pay Act.

Employee Withholdings

Review of payroll records to assure the practice is complying with federal, state and local tax withholding requirements.

Disciplinary System

Review of company policies to identify problems or inconsistencies with the way that employees are disciplined and terminated.

Hiring and Firing Procedures

Review the practice's hiring and firing procedures to assure compliance with all state and federal regulations including drug and medical testing, and hiring employees with disabilities.

Leave Policies

Review all policies regarding employee leave including vacation, sick days, personal days, bereavement leave, jury duty, snow and emergency days and unpaid leave. Special attention is paid to whether the leave policies are consistent with the sometimes contradictory requirements of The Family and Medical Leave Act of 1993, The Americans With Disabilities Act of 1990 and applicable workers' compensation laws.

Employee Privacy Issues

Review of employee privacy issues including notification to employees of the lack of privacy with company e-mail, voice mail and other communications.

Privacy Issues

Review issues of the practice s' proprietary information and trade secrets so if the practice needs to bring a civil action against an employee for stealing company secrets, the lawsuit has the best chance of success.

The foregoing is not an exhaustive list of the areas to be reviewed and additional areas such as immigration, unemployment and benefits would also need attention.

Employment law audits are an excellent way to identify and correct problems before they begin. Although there is no guarantee that any given employee will not file a lawsuit, or that a governmental agency will not launch an investigation, a medical practice is well served by an employment law audit that roots out problems and corrects deficiencies before a lawsuit or investigation is commenced.

For more information about employment law audits, employee handbooks or any employment law topic, contact Michael J. Torchia, Esquire or Charles W. Ormsby, Jr., Esquire at Semanoff Ormsby Greenberg & Torchia, LLC at (215) 887-0200 or e-mail at mtorchia@sogtlaw.com or cormsby@sogtlaw.com.